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AMENDED IN SENATE SEPTEMBER 3, 2009
AMENDED IN SENATE JUNE 29, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY APRIL 15, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1011

Introduced by Assembly Member Jones

February 27, 2009

~~An act to add Division 4 (commencing with Section 13900) to the Insurance Code, relating to green insurance. An act to amend Sections 926.1, 926.2, and 12939 of, and to add Division 4.1 (commencing with Section 13925) to, the Insurance Code, relating to insurer investment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, as amended, Jones. Insurance: green—~~incentives~~. ~~investments.~~

Existing law requires each admitted insurer to provide information biennially to the Insurance Commissioner on all of its community development investments and community development infrastructure investments, as defined, in California. The commissioner and the Department of Insurance are required to provide certain information on these investments to the public, as specified. These provisions are to remain in effect only until January 1, 2011, and are repealed as of that date.

This bill would make findings and declarations relating to California's role in greenhouse gas reduction, and would include green investments, as defined, as community development investments. The bill would require the commissioner, on the department's Internet Web site, to biennially identify those insurers that make investments that qualify as green investments and the aggregate amount of identified insurer investments in green investments. The bill would extend the date for repealing those provisions to January 1, 2015.

Existing law generally regulates the business of insurance in this state. The bill would make changes to findings and declarations relating to specialized financial institutions and tax incentives for their capitalization.

~~This bill would require the Insurance Commissioner to hold public hearings, collect certain information, and study the effects of environmentally friendly practices on insurance products, as specified. This bill would also require property insurers to offer green replacement coverage, as defined, to an insured after a loss. This bill would require property insurers to offer coverage for solar and wind distributed generation, as specified. This bill would also authorize insurers to claim a 20-percent 20% credit for green investments in environmental financial institutions against the amount of gross premiums tax owed by the insurer, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) Climate change will have detrimental effects on some of*
- 4 *California's largest industries, including the insurance industry.*
- 5 *It will also increase the strain on energy and natural resources*
- 6 *necessary to rebuild and restore property after losses.*
- 7 *(b) National and international actions are necessary to fully*
- 8 *address the issue of climate change. However, actions taken in*
- 9 *California to reduce emissions of greenhouse gases will have*
- 10 *far-reaching effects by encouraging other states, the federal*
- 11 *government, and other countries to act.*
- 12 *(c) By exercising a global leadership role, California and its*
- 13 *state-based businesses will also position California's economy,*

1 *technology centers, financial institutions, and businesses to benefit*
2 *from national and international efforts to reduce emissions of*
3 *greenhouse gases. More importantly, investing in and fostering*
4 *the development of innovative and pioneering technologies will*
5 *assist California businesses and communities in achieving*
6 *reductions in the emissions of greenhouse gases and will provide*
7 *an opportunity for the state, including the state's businesses, to*
8 *take a global economic and technological leadership role in*
9 *reducing emissions of greenhouse gases.*

10 *(d) By increasing incentives for reduced driving, the building*
11 *of "green buildings," investments in energy efficiency*
12 *improvements and renewable energy projects, and the conservation*
13 *of natural resources, the insurance industry can help reduce*
14 *greenhouse gas emissions.*

15 *(e) By making investments that support community development*
16 *financial institutions in low- and moderate-income communities,*
17 *including needed financial services, economic development, and*
18 *housing, the insurance community can help those communities*
19 *better accommodate new growth in compact forms, so as to*
20 *deemphasize automobile dependency, integrate new growth into*
21 *existing communities, support a diversity of affordable housing*
22 *near employment centers, and create jobs.*

23 *(f) Making this new capital available furthers important green*
24 *objectives by enabling communities to focus on the use and reuse*
25 *of existing urbanized lands supplied with infrastructure as the*
26 *situs for new growth, and by helping those communities grow*
27 *through new capital investment in the maintenance and*
28 *rehabilitation of existing infrastructure so that the reuse and*
29 *reinvention of city centers and existing transportation corridors*
30 *and community spaces through mixed-use development, affordable*
31 *housing opportunities, safe, reliable, and efficient multimodal*
32 *transportation systems, and transit-oriented development are*
33 *encouraged.*

34 *SEC. 2. Section 926.1 of the Insurance Code is amended to*
35 *read:*

36 *926.1. As used in this article, the following terms shall have*
37 *the following meanings:*

38 *(a) "Area median income" (AMI) means either of the following:*

39 *(1) The median family income for the Metropolitan Statistical*
40 *Area (MSA), if a person or geography is located in an MSA, or*

1 for the metropolitan division, if a person or geography is located
2 in an MSA that has been subdivided into metropolitan divisions.

3 (2) The statewide nonmetropolitan median family income, if a
4 person or geography is located outside an MSA.

5 (b) “~~Community—Development—Investment~~” *development*
6 *investment*” means an investment where all or a portion of the
7 investment has as its primary purpose community development
8 for, or that directly benefits, California low-income or
9 moderate-income individuals, families, or communities.
10 “~~Community—Development—Investment~~” *development investment*”
11 includes, but is not limited to, investments in California in the
12 following:

13 (1) Affordable housing, including multifamily rental and
14 ownership housing, for low-income or moderate-income
15 individuals or families.

16 (2) Community facilities or community services providers
17 (including providers of education, health, or social services)
18 directly benefiting low-income or moderate-income individuals,
19 families or communities.

20 (3) Economic development that demonstrates benefits, including,
21 but not limited to, job creation, retention or improvement, or
22 provision of needed capital, to low-income, or moderate-income,
23 individuals, families, or communities, including urban or rural
24 communities, or businesses or nonprofit community service
25 organizations that serve these communities.

26 (4) Activities that revitalize or stabilize low-income or
27 moderate-income communities.

28 (5) Investments in or through California Organized Investment
29 Network (COIN)-certified ~~Community—Development—Financial~~
30 ~~Institutions~~ *community development financial institutions* (CDFIs)
31 and investments made pursuant to the requirements of federal,
32 state, or local community development investment programs or
33 community development investment tax incentive programs,
34 *including green investments*, if these investments directly benefit
35 low-income, or moderate-income, individuals, families, and
36 communities and are consistent with this article.

37 (6) ~~Community—Development—Infrastructure—Investments~~
38 *development infrastructure investments*.

(7) Investments in a commercial property or properties located in low-income or moderate-income geographical areas and are consistent with this article.

(c) ~~“Community–Development–Infrastructure”~~ *development infrastructure* means California public debt (including all debt issued by the State of California or a California ~~State~~ *state* or local government agency) where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low-income or moderate-income communities and is consistent with subdivision (b).

(d) “Geography” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(e) *“Green investments” means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new growth and jobs. “Green investments” also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation, including, but not limited to, solar and wind power, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.*

~~(e)~~

(f) “Insurer” means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

~~(f)~~

(g) “Investment” means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

~~(g)~~

(h) “Low-income” means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

1 ~~(h)~~

2 (i) “MSA” means a metropolitan statistical area as defined by
3 the Director of the Office of Management and Budget.

4 ~~(i)~~

5 (j) “Moderate income” means an individual income that is at
6 least 50 percent but less than 80 percent of the AMI, or a median
7 family income that is at least 50 percent but less than 80 percent
8 of the AMI in the case of a geographical area.

9 ~~(j)~~

10 (k) “Nonmetropolitan area” means any area that is not located
11 in an MSA.

12 SEC. 3. *Section 926.2 of the Insurance Code is amended to*
13 *read:*

14 926.2. (a) Each insurer admitted in California shall provide
15 information biennially to the commissioner on all its ~~Community~~
16 ~~Development Investments and Community Development~~
17 ~~Infrastructure Investments~~ *community development investments*
18 *and community development infrastructure investments* in
19 California. This information shall be provided as part of the
20 required filing pursuant to Section 900 or Section 11131, or through
21 a data call, or by other means as determined by the commissioner.
22 COIN shall provide insurers with information on why investments,
23 if any, were found not to be qualified by the commissioner.

24 (b) The commissioner shall biennially provide information on
25 the department’s Internet Web site on the aggregate insurer
26 ~~Community Development Investments and Community~~
27 ~~Development Infrastructure Investments~~ *community development*
28 *investments and community development infrastructure*
29 *investments*. Insurers that make investments that are innovative,
30 responsive to community needs, not routinely provided by insurers,
31 *qualify as green investments*, or have a high degree of positive
32 impact on the economic welfare of low-income or moderate-income
33 individuals, families, or communities in urban or rural California
34 shall be identified.

35 (c) The department shall also biennially provide information
36 on the department’s Internet Web site regarding the aggregate
37 amount of California public debt (including all debt issued by the
38 State of California or a California State or local government
39 agency) purchased by insurers as reported to the department in

1 their National Association of Insurance Commissioners (NAIC)
2 annual statement filing pursuant to Section 900 or Section 11131.

3 (d) The department shall also biennially provide on its Internet
4 Web site the aggregate amount of identified California investments,
5 as reported to the NAIC in the annual statement filed pursuant to
6 Section 900 or Section 11131.

7 (e) *The department shall also biennially provide information*
8 *on its Internet Web site regarding the aggregate amount of*
9 *identified California insurer investments in green investments.*

10 (e)
11 (f) The first report under this article shall be filed with the
12 commissioner by May 31, 2007.

13 (f)
14 (g) Insurers that did not comply with the voluntary community
15 investment data call issued by the commissioner in May 2005 shall
16 provide the information requested therein to the commissioner on
17 or before February 28, 2007.

18 (g)
19 (h) This article shall remain in effect only until ~~January 1, 2011,~~
20 *January 1, 2015*, and as of that date is repealed, unless a later
21 enacted statute, that is enacted before ~~January 1, 2011,~~ *January 1,*
22 *2015*, deletes or extends that date.

23 (h)
24 (i) Nothing in this article shall limit the authority of the
25 commissioner to ask for data concerning community development
26 investments on a voluntary basis on or after January 1, ~~2010,~~ *2014*,
27 if this article is not extended.

28 SEC. 4. *Section 12939 of the Insurance Code is amended to*
29 *read:*

30 12939. The Legislature finds and declares all of the following:

31 (a) There are specialized financial institutions in California that
32 are specifically dedicated to, and whose core purpose is to, provide
33 financial products and services to people and communities
34 underserved by traditional financial markets *and to support*
35 *renewable energy projects, energy efficiency improvements,*
36 *economic development, and affordable housing in these*
37 *communities. These—Community—Development—Financial*
38 ~~Institutions~~ *community development financial institutions* or CDFIs
39 seek to bridge the growing gap that exists between the financial
40 products and services, *renewable energy generation, energy*

1 *efficiency improvements, economic development, and affordable*
2 *housing* available to the economic mainstream and those offered
3 to low-income people and communities, as well as the nonprofit
4 institutions that serve them. In addition, they serve a critical role
5 in addressing issues of poverty and access to credit in economically
6 disadvantaged communities by providing services, including, but
7 not limited to, credit counseling to consumers, financial literacy
8 training, homeownership counseling, entrepreneurial education,
9 and technical assistance to small business owners.

10 (b) These mission-driven financial institutions require additional
11 capital in order to expand their ability to provide financial products
12 and services, *and to promote needed renewable energy generation*
13 *projects, energy efficiency improvements, economic development,*
14 *and affordable housing* for low-income individuals and
15 communities, and the businesses and nonprofit agencies that serve
16 them. For example, some offer responsible alternatives to high-cost
17 check-cashing services and payday lenders that have moved into
18 low-income communities. Others help finance small businesses,
19 affordable housing, and community services and facilities that, in
20 turn, help stabilize low-income neighborhoods and alleviate
21 poverty.

22 (c) In carrying out their mission, funding community
23 development is given priority over providing high returns to
24 investors.

25 (d) It is the intent of the Legislature to provide an incentive in
26 the form of California tax credits to attract much needed additional
27 private capital investments that would not otherwise be available
28 to CDFIs without the benefit of such incentive. It is the expectation
29 of the Legislature that CDFIs will leverage these new investment
30 dollars for the direct benefit of economically disadvantaged
31 communities and low-income people in California.

32 *SEC. 5. Division 4.1 (commencing with Section 13925) is added*
33 *to the Insurance Code, to read:*

34
35 *DIVISION 4.1. GREEN INSURANCE TAX CREDIT AND*
36 *INVESTMENT*
37

38 *13925. (a) For each taxable year beginning on or after*
39 *January 1, 2011, there shall be allowed, as a credit against the*
40 *tax, as defined in Section 28 of Article XIII of the California*

1 *Constitution, an amount equal to 20 percent of the amount of each*
2 *qualified investment made by a taxpayer during the taxable year*
3 *into green investments certified by the department.*

4 *(b) For purposes of determining any tax that may be imposed*
5 *under Section 685 on a taxpayer not organized under the laws of*
6 *this state, the credit allowed by subdivision (a) shall be treated as*
7 *a tax paid under Section 12201 or Section 28 of Article XIII of the*
8 *California Constitution.*

9 *(c) Notwithstanding any other provision of this section, no credit*
10 *shall be allowed under this section unless the department certifies*
11 *that the investment qualifies for the credit under this section and*
12 *certifies the total amount of the credit allocated to the taxpayer*
13 *pursuant to this section.*

14 *(d) No credit shall be allowed by this section unless there is an*
15 *application for certification as a green investment and the taxpayer*
16 *provides satisfactory substantiation to, and in the form and manner*
17 *requested by, the department.*

18 *(e) For purposes of this section, a “green investment” means*
19 *an investment that emphasizes clean energy projects, energy*
20 *efficiency improvements, green technology projects, and other*
21 *investments that conserve natural resources or reduce greenhouse*
22 *gas emissions.*

23 *(f) The commissioner shall establish a task force to investigate*
24 *innovative insurance products that could bolster the development*
25 *of California’s clean energy and green technology industries, and*
26 *encourage investments in clean energy and green technology by*
27 *insurance companies. The members of the task force shall include,*
28 *but not be limited to, entrepreneurs, business leaders, and*
29 *insurance experts who specialize in emerging companies.*

30 *(g) A person or entity seeking certification of a green investment*
31 *shall do all of the following:*

32 *(1) Apply to the department for certification of a green*
33 *investment.*

34 *(2) Apply to the department, on behalf of the taxpayer, for*
35 *certification of the amount of the investment and the credit amount*
36 *allocated to the taxpayer, obtain the certification, and retain a*
37 *copy of the certification.*

38 *(3) Obtain the taxpayer’s California company identification*
39 *number for tax administration purposes and provide that*

1 information to the department, with the application required in
2 paragraph (2).

3 (4) Provide an annual listing to the State Board of Equalization,
4 in the form and manner agreed upon by the State Board of
5 Equalization and the department, of the names and taxpayer's
6 California company identification numbers of any taxpayer who
7 makes any withdrawal or partial withdrawal of a qualified
8 investment before the expiration of 60 months from the date of the
9 qualified investment.

10 (h) The commissioner may develop instructions, procedures,
11 and standards for applications, and for administering the criteria
12 for the evaluation of applications, under this section. The
13 commissioner may, from time to time, issue regulations to
14 implement the provisions of this section.

15 (i) The aggregate amount of qualified investments made by all
16 taxpayers pursuant to this section shall not exceed five million
17 dollars (\$5,000,000) for each calendar year. However, if the
18 aggregate amount of qualified investments made in any calendar
19 year is less than five million dollars (\$5,000,000), the difference
20 may be carried over to the next year, and any succeeding year
21 during which this section remains in effect, and added to the
22 aggregate amount authorized for those years.

23 (j) In the case where the credit allowed by this section exceeds
24 the "tax," the excess may be carried over to reduce the "tax" for
25 the next four years, or until the credit has been exhausted,
26 whichever occurs first.

27 (k) The State Board of Equalization shall, as requested by the
28 department and the California Organized Investment Network or
29 its successor, advise and assist in the administration of this section.

30 (l) The department shall biennially provide information on the
31 department's Internet Web site regarding the aggregate amount
32 of identified California investments in green investments.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, September 3, 2009. (JR11)**

O